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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,993	11/19/2003	Mustafa Kesal	MSI-1647USC1	7612
22801	7590	06/12/2007	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			JOHNS, ANDREW W	
			ART UNIT	PAPER NUMBER
			2624	
			NOTIFICATION DATE	DELIVERY MODE
			06/12/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

## Office Action Summary

Application No.

10/716,993

Applicant(s)

KESAL ET AL.

Examiner

Andrew W. Johns

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 53-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-55, 59-64, 66-79 and 81-87 is/are rejected.
- 7) ☒ Claim(s) 58, 65 and 80 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The claim status identifier for claims 1-52 in the preliminary amendment filed 19 November 2003 appears to be incorrect. The claims are identified in the claim listing as “withdrawn”, but applicant’s remarks suggest that applicant has cancelled claims 1-52. The cancellation of claims 1-52 is also reflected in the fee calculations, so that claims 1-52 are being treated as though they have been cancelled by applicant, and they should be properly identified as having a “cancelled” status in the claim listing. It is noted that claims that are “withdrawn” are only withdrawn from consideration (usually in response to an election or restriction requirement) but are still pending, as opposed to claims that are cancelled, which are no longer pending in the application. Correction of this status identifier in any future amendments is required.

### ***Claim Rejections - 35 U.S.C. § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 53-54, 57, 59-61, 64, 66-67, 70-71, 74-75, 78-79, 81-83 and 86-87 are rejected under 35 U.S.C. § 102(b) as being anticipated by Seth-Smith et al. (US 4,866,770 A).

With respect to claims 53, 60, 66 and 70, Seth-Smith et al. teaches obtaining original goods (i.e., a video transmission; column 9, lines 47-51), generating a stealthy representation of a defined key (column 13, line 55 through column 14, line 16), and producing a modified goods

having the stealthy representation on the periphery of the original goods (i.e., the representation is located in the vertical blanking interval of the video signal, which is peripheral to the viewable portion of the image data). Furthermore, Seth-Smith et al. also teaches a processor-readable medium having processor executable instructions (column 10, lines 56-57) for performing these operations, and a system for implementing them (shown generally in Figure 1A). In addition, Seth-Smith et al. further teaches that the modified goods are an image embodied either on electronic or physical medium (i.e., a video transmission; column 9, lines 47-51) and the periphery, in a space domain, borders an outer edge of the original goods (as shown in Figure 2, the VBI borders the upper outer edge of the original video image), as further stipulated by claims 54, 61, 67 and 71, that the system includes a processor and memory as well as the program (these components form an inherent part of the programmed computer described at column 10, lines 56-57), as defined by claim 59; and that the goods are selected from a group including image, audio, video, software, multimedia, database and dataset (i.e., video), as further required by claims 57 and 64.

With respect to claims 74-75, 78-79, 81-83 and 86-87, Seth-Smith et al. further teaches a system, program, and method for extracting a stealthy representation from a subject object to decode a key therefrom (column 11, lines 30-63), as variously stipulated by these claims.

4. Claims 53, 55, 57, 59-60, 62, 64, 66, 68, 70, 72, 74, 76, 78-79, 81-83, 84, and 86-87 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ehram et al. (US 4,203,166 A).

With respect to claims 53, 60, 66 and 70, Ehram et al. teaches obtaining original goods (i.e., a data file; column 6, lines 4-5); generating a stealthy representation of a defined key (column 25, lines 45-50) and producing modified goods having the stealthy representation on the periphery of the original goods (i.e., the key is stored in the file header; lines 16-17 in the

Abstract). Furthermore, Ehram et al. further teaches a system (shown generally in Figure 1, for example) and a program (made up of instructions and commands such as those variously described in column 16, line 43 through column 20, line 38) for performing these operations. In addition, Ehram et al. further teaches that the goods are a signal (i.e., the data file is transmitted, as shown in Figure 1) and that the periphery, in the time domain, precedes, follows, or both precedes and follows the original goods (i.e., the header precedes the data file), as further required by claims 55, 62, 68 and 72; that the goods can include one of image, audio, video, software, multimedia, database and dataset (i.e., a data file), as defined in claims 57 and 64; and that the system includes memory (2 in Figure 1) and processor (1 in Figure 1) as well as the program, as stipulated in claim 59.

With respect to claims 74, 76, 78-79, 81-83, 84 and 86-87, Ehram et al. further teaches a system, program, and method for extracting a stealthy representation from a subject object to decode a key therefrom (lines 17-23 in the Abstract), as variously stipulated by these claims.

***Claim Rejections - 35 U.S.C. § 103***

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 56, 63, 69, 73, 77 and 85 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Seth-Smith et al. as applied to claims 53-54, 57, 59-61, 64, 66-67, 70-71, 74-75, 78-79, 81-83 and 86-87 above, and further in view of Hopper (US 3,406,344 A).

While Seth-Smith et al. meets a number of the limitations of the claimed invention, as pointed out more fully above, and further teaches that the data can further include audio data (column 6, lines 37-40), but fails to specifically teach that the periphery, in the frequency domain, is within frequencies outside a range of human perception, as further stipulated by these claims.

Hopper teaches conveying auxiliary information in the periphery of a speech signal, where the periphery is in a frequency range that is not perceptible to a human (column 5, lines 19-30). Because this technique provides a convenient and efficient method for conveying such information without human observers being aware of its presence, it would have been obvious to one of ordinary skill in the art to include such a frequency domain periphery in the system of Seth-Smith et al.

#### *Allowable Subject Matter*

7. Claims 58, 65 and 80 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

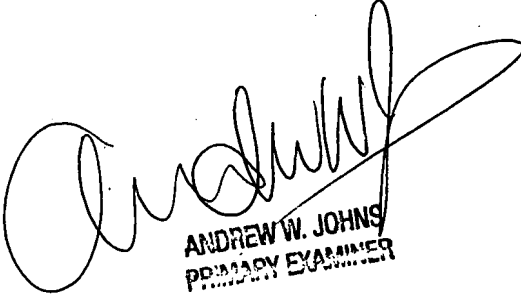
#### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Johns whose telephone number is (571) 272-7391. The examiner is normally available Monday through Friday, at least during the hours of 9:00 am to 3:00 pm Eastern Time. The examiner may also be contacted by e-mail using the address: andrew.johns@uspto.gov. (Applicant is reminded of the Office policy regarding e-mail communications. See M.P.E.P. § 502.03)

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached at (571) 272-7453. The fax phone number for this art unit is (571) 273-8300. In order to ensure prompt delivery to the examiner, all unofficial communications should be clearly labeled as "Draft" or "Unofficial."

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center Receptionist whose telephone number is (571) 272-2600.

A. Johns  
5 June 2007



ANDREW W. JOHNS  
PRIMARY EXAMINER